

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
Jean-Michel Hode : Confirmation No. 9147
U.S. Patent Application No. 10/574,291 : Group Art Unit: Not Yet Known
Filed: March 31, 2006 : Examiner: Not Yet Known

For: GENERATION OF AGITATION NOISE ACCORDING TO A PREDETERMINED
HISTOGRAM

**RENEWED PETITION UNDER 37 CFR 1.81 AND RECONSIDERATION OF HOLDING
OF ABANDONMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This document is submitted in response to the Decision on Petition Under 37 CFR 1.181 dated November 18, 2008 and the Notification of Abandonment dated July 30, 2007, which was improperly issued. The Notification states that the Applicant failed to respond to the Notification of Missing Requirements mailed November 13, 2006. However, Applicant filed a Response to Notice to File Missing Parts on November 22, 2006 via facsimile. Therefore, Applicant respectfully resubmits a true copy of the facsimile transmission of the Response to Notice to File Missing Parts, along with a true copy of the Auto-Reply Transmission from the USPTO as evidence that it was timely filed and received by the USPTO on November 22, 2006. As shown, the statutory fee of \$130.00 was paid by credit card with the original Submission.

Also enclosed is a confirming statement from Candance Chambliss, the person who signed the Certificate of Transmission.

Applicant respectfully requests that the Holding of Abandonment be withdrawn and the application be reopened for prosecution.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN & BERNER, LLP



Kenneth M. Berner
Registration No. 37,093

1700 Diagonal Road, Suite 300

Alexandria, Virginia 22314

(703) 684-1111

(703) 518-5499 Facsimile

Date: January 16, 2009

KMB/cac

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Jean-Michel Hode : Confirmation No. 9147
U.S. Patent Application No. 10/574,291 : Group Art Unit: Not Yet Known
Filed: March 31, 2006 : Examiner: Not Yet Known

For: GENERATION OF AGITATION NOISE ACCORDING TO A PREDETERMINED
HISTOGRAM

STATEMENT OF CANDANCE CHAMBLISS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Candance Chambliss, attest the following:

1. I am an assistant to Kenneth M. Berner, Attorney of Record;

2. In my review of the file jacket records, the records indicate that the Notice to

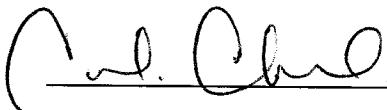
File Missing Parts was received in our office on November 14, 2006; and

3. On November 22, 2006, I prepared and filed a Response to the Notice to File Missing Parts dated November 13, 2006 with the US Patent and Trademark Office via facsimile (7 pages) including a Response to Notice Filing Parts, Credit Card PTO-2038 Form, copy of Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) and Declaration/Power of Attorney (copy enclosed). On November 22, 2006, we received a Fax Tx Report stating the fax transmission was ok (copy enclosed). On November 22, 2006, an Auto-Reply Facsimile Transmission was received from the USPTO stating that seven pages were received on November 22, 2006 at 12:59:20 PM (Eastern Standard Time) (copy enclosed).

I hereby declare that all statements made herein by my own knowledge are true and that all statements made on information and belief are believed to be true; and further

that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Date: January 16, 2009



Candance Chambliss

C:\Auto-reply fax to 7035185499 COMPANY:



Auto-Reply Facsimile Transmission

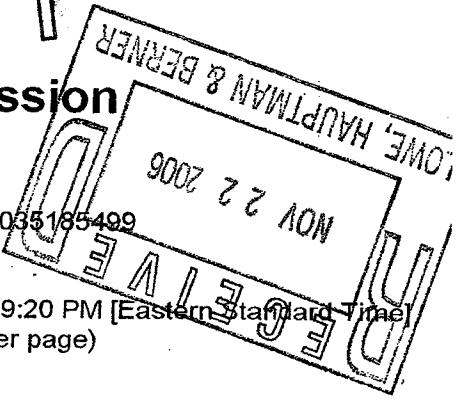
COPY

TO:

Fax Sender at 7035185499

Fax Information
Date Received:
Total Pages:

11/22/2006 12:59:20 PM [Eastern Standard Time]
7 (including cover page)



ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received
Cover
Page
=====>

11/22/2006 WED 12:57	FAX 7035185499	0001/007
Docket No.: 4590-506		
PATENT		
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE		
In re Application of		
Jean-Michel HODE : Confirmation No. 9147		
U.S. Patent Application No. 10/574,291 : Group Art Unit: n/a		
Filed: March 31, 2006 : Examiner: n/a		
For: GENERATION OF AGITATION NOISE ACCORDING TO A PREDETERMINED HISTOGRAM		
RESPONSE TO NOTICE TO FILE MISSING PARTS		
Mail Stop Missing Parts Commissioner of Patents P.O. Box 1450 Alexandria, VA 22313-1450		
Sir:		
This is in response to the Notice of Missing Parts of Application dated November 13, 2006, the period for response to which is set to expire on January 13, 2007. Submitted herewith are the following:		
<ul style="list-style-type: none"> • Executed Declaration and Power of Attorney; • Late Declaration Surcharge: \$130.00 and • Copy of Notice to File Missing Parts 		
Attached hereto is a credit card payment form in the amount of \$130.00, which covers the fees for the above listed items. Please charge any deficiencies in the enclosed fees to Deposit Account 07-1337 and direct any inquiries in connection with this application directly to the undersigned.		
Respectfully submitted, LOWE HAUPTMAN & BERNER, LLP		
 Kenneth M. Berner Registration No. 37,093		
<small style="text-align: center;">CERTIFICATION OF FACSIMILE TRANSMISSION I HEREBY CERTIFY THAT THIS PAPER IS BEING FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE ON THE DATE SHOWN BELOW</small>		
<small style="text-align: center;">Constance Cimbalus Type or Print Name of Person Signing Certification Constance Cimbalus Signature Constance Cimbalus Date 11/22/2006 Facsimile Number 571-213-8300</small>		
<small style="font-size: small;">1700 Diagonal Road, Suite 310 Alexandria, Virginia 22314 (703) 684-1111 KMB/cac Facsimile: (703) 518-5499 November 22, 2006</small>		

*** FAX TX REPORT ***

COPY

TRANSMISSION OK

JOB NO.	0956
DESTINATION ADDRESS	5712738300
PSWD/SUBADDRESS	
DESTINATION ID	
ST. TIME	11/22 12:57
USAGE T	01' 52
PGS.	7
RESULT	OK

Docket No.: 4590-506

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Jean-Michel HODE

: Confirmation No. 9147

U.S. Patent Application No. 10/574,291

: Group Art Unit: n/a

Filed: March 31, 2006

: Examiner: n/a

For: GENERATION OF AGITATION NOISE ACCORDING TO A PREDETERMINED HISTOGRAM

RESPONSE TO NOTICE TO FILE MISSING PARTS

Mail Stop Missing Parts

Commissioner of Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This is in response to the Notice of Missing Parts of Application dated November 13, 2006, the period for response to which is set to expire on January 13, 2007. Submitted herewith are the following:

- Executed Declaration and Power of Attorney;
- Late Declaration Surcharge: \$130.00 and
- Copy of Notice to File Missing Parts

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Respectfully submitted,

LOWE HAUPTMAN & BERNER, LLP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

In re Application of

Jean-Michel HODE

Confirmation No. 9147

U.S. Patent Application No. 10/574,291

Group Art Unit: n/a

Filed: March 31, 2006

Examiner: n/a

For: GENERATION OF AGITATION NOISE ACCORDING TO A PREDETERMINED
HISTOGRAM**RESPONSE TO NOTICE TO FILE MISSING PARTS****Mail Stop Missing Parts**

Commissioner of Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This is in response to the Notice of Missing Parts of Application dated November 13, 2006, the period for response to which is set to expire on January 13, 2007. Submitted herewith are the following:

- Executed Declaration and Power of Attorney;
- Late Declaration Surcharge: \$130.00 and
- Copy of Notice to File Missing Parts

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Respectfully submitted,

LOWE HAUPTMAN & BERNER, LLP

*Kenneth M. Berner*Kenneth M. Berner
Registration No. 37,093

CERTIFICATION OF FACSIMILE TRANSMISSION
I HEREBY CERTIFY THAT THIS PAPER IS BEING FACSIMILE
TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE

ON THE DATE SHOWN BELOW

Candace Chmudiss
TYPE OR PRINT NAME OF PERSON SIGNING CERTIFICATION
Candace Chmudiss 11/22/2006
SIGNATURE DATE
571 273 8300
FACSIMILE NUMBER

1700 Diagonal Road, Suite 310
Alexandria, Virginia 22314
(703) 684-1111 KMB/cac
Facsimile: (703) 518-5499
November 22, 2006

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

United States Patent & Trademark Office
Credit Card Payment Form
Please Read Instructions before Completing this Form

COPY

Credit Card Information

Credit Card type: Visa Mastercard American Express Discover

Credit Card Account #: 3715 791450 91009

Credit Card Expiration Date: 07/2010

Name as it Appears on Credit Card: Kenneth M. Berner

Payment Amount \$ (US Dollars): 130.00

Signature: *Kenneth M. Berner* Date: November 22, 2006

Refund Policy: The Office may refund a fee paid by mistake or in excess of that required. A change of purpose after payment of a fee will not entitle a party to a refund of such fee. The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested, and will not notify the payor of such amount (37 CFR 1.26). Refund of a fee paid by credit card will be via credit to a credit card account.

Service charge: There is a 50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21(m)).

Credit Card Billing Address

Street Address 1: 5331 Strathmore Avenue

Street Address 2:

City: Kensington

State: Maryland

Zip/Postal Code: 20895

Country: USA

Daytime Phone #: 703-535-7054

Fax #: 703-518-5499

Request and Payment Information

Description of Request and Payment Information:

Late Declaration Surcharge

<input checked="" type="checkbox"/> Patent Fee	<input type="checkbox"/> Patent Maintenance Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No. 10/574,291	Application No. 10/574,291	Docket No.	IDON Customer No.
Patent No.	Patent No.	Serial/Registration No.	
Attorney Docket No. 4590-506		Identity or Describe Mark	

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form, the United States Patent & Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

KMB/cac/6665



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
www.uspto.gov

COPY

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/574,291	Jean-Michel Hode	4590506
INTERNATIONAL APPLICATION NO.		
PCT/EP04/52368		
I.A. FILING DATE	PRIORITY DATE	
09/30/2004	10/03/2003	

33308
 LOWE HAUPTMAN GILMAN & BERNER, LLP
 1700 DIAGNOSTIC ROAD, SUITE 300
 ALEXANDRIA, VA 22314

CONFIRMATION NO. 9147

371 FORMALITIES LETTER



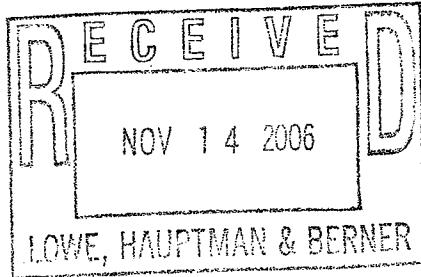
OC000000021191827

Date Mailed: 11/13/2006

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 03/31/2006
- Copy of the International Search Report filed on 03/31/2006
- Preliminary Amendments filed on 03/31/2006
- Information Disclosure Statements filed on 03/31/2006
- U.S. Basic National Fees filed on 03/31/2006
- Assignment filed on 03/31/2006
- Priority Documents filed on 03/31/2006
- Specification filed on 03/31/2006
- Claims filed on 03/31/2006
- Abstracts filed on 03/31/2006
- Drawings filed on 03/31/2006



The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

COPY

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

FREDERICK SMITH

Telephone: (703) 308-9140 EXT 210

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/574,291	PCT/EP04/52368	4590506

FORM PCT/DO/EO/905 (371 Formalities Notice)

COPY

Declaration for Patent Application
Déclaration pour Demande de Brevet
French Language Declaration

En tant l'inventeur nommé ci-après, je déclare par le présent acte que:

Mon domicile, mon adresse postale et ma nationalité sont ceux figurant ci-dessous à côté de mon nom.

Je crois être le premier inventeur original et unique (si un seul nom est mentionné ci-dessous), ou l'un des premiers co-inventeurs originaux (si plusieurs noms sont mentionnés ci-dessous) de l'objet revendiqué, pour lequel une demande de brevet a été déposée concernant l'invention intitulée

et dont la description est fournie ci-joint à moins

- ci-joint
 a été déposée le _____

sous le numéro de demande des Etats-Unis ou le numéro de demande international PCT

_____ et modifiée le
 _____ (le cas échéant).

Je déclare par le présent acte avoir passé en revue et compris le contenu de la description ci-dessus, revendications comprises, telles que modifiées par toute modification dont il aura été fait référence ci-dessus.

Je reconnais devoir divulguer toute information pertinente à la brevetabilité, comme défini dans le Titre 37, § 1.56 du Code fédéral des réglementations.

As a below-named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled.

**GENERATION OF THERMAL AGITATION NOISE
 ACCORDING TO A PREDETERMINED
 HISTOGRAM**

the specification of which

- is attached hereto.
 was filed on September 30, 2004

as United States Application Number or PCT International Application Number

PCT/EP2004/052368 and was amended on
 _____ (if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

COPY

French Language Declaration

Je revendique par le présent acte avoir la priorité étrangère, en vertu du Titre 35, § 119(a)-(d) ou § 365(b) du Code des Etats-Unis, sur toute demande étrangère de brevet ou certificat d'inventeur ou, en vertu du Titre 35, § 365(a) du même Code, sur toute demande internationale PCT désignant au moins un pays autre que les Etats-Unis et figurant ci-dessous et, en cochant la case, j'ai aussi indiqué ci-dessous toute demande étrangère de brevet, tout certificat d'inventeur ou toute demande internationale PCT ayant une date de dépôt précédant celle de la demande à propos de laquelle une priorité est revendiquée.

Prior Foreign Application(s)

Demande(s) de brevet antérieure(s) dans un autre pays.

03 11621 <hr/> (Number) (Numéro)	FRANCE <hr/> (Country) (Pays)
<hr/> (Number) (Numéro)	<hr/> (Country) (Pays)

Je revendique par le présent acte tout bénéfice, en vertu du Titre 35, § 119(e) du Code des Etats-Unis, de toute demande de brevet provisoire effectuée aux Etats-Unis et figurant ci-dessous.

<hr/> (Application No.) (N° de demande)	<hr/> (Filing Date) (Date de dépôt)
--	--

Je revendique par le présent acte tout bénéfice, en vertu du Titre 35, § 120 du Code des Etats-Unis, de toute demande de brevet effectuée aux Etats-Unis, ou en vertu du Titre 35, § 365(c) du même Code, de toute demande internationale PCT désignant les Etats-Unis et figurant ci-dessous et, dans la mesure où l'objet de chacune des revendications de cette demande de brevet n'est pas divulgué dans la demande antérieure américaine ou internationale PCT, en vertu des dispositions du premier paragraphe du Titre 35, § 112 du Code des Etats-Unis, je reconnais devoir divulguer toute information pertinente à la brevetabilité, comme défini dans le Titre 37, § 1.56 du Code fédéral des réglementations, dont j'ai pu disposer entre la date de dépôt de la demande antérieure et la date de dépôt de la demande nationale ou internationale PCT de la présente demande:

<hr/> PCT/EP2004/052368 <hr/> (Application No.) (N° de demande)	<hr/> September 30, 2004 <hr/> (Filing Date) (Date de dépôt)
---	--

<hr/> (Application No.) (N° de demande)	<hr/> (Filing Date) (Date de dépôt)
--	--

Je déclare par le présent acte que toute déclaration ci-incluse est, à ma connaissance, véridique et que toute déclaration formulée à partir de renseignements ou de suppositions est tenue pour véridique; et de plus, que toutes ces déclarations ont été formulées en sachant que toute fausse déclaration volontaire ou son équivalent est passible d'une amende ou d'une incarcération, ou des deux, en vertu de la § 1001 du Titre 18 du Code des Etats-Unis, et que de telles déclarations volontairement fausses risquent de compromettre la validité de la demande de brevet ou du brevet délivré à partir de celle-ci.

I hereby claim foreign priority under Title 35, United States Code, § 119 (a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below, and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed.

Priority Claimed Droit de priorité Revendiqué	<input checked="" type="checkbox"/>	<input type="checkbox"/>
03 October 2003 <hr/> (Day/Month/Year Filed) (Jour/Mois/Anné de dépôt)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<hr/> (Day/Month/Year Filed) (Jour/Mois/Anné de dépôt)	<input type="checkbox"/>	<input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

(Application No.) (N° de demande)	(Filing Date) (Date de dépôt)
--------------------------------------	----------------------------------

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

<hr/> (Status: Patented, Pending, Abandoned) (Statut : breveté, en cours d'examen, abandonné)
--

<hr/> (Status: Patented, Pending, Abandoned) (Statut : breveté, en cours d'examen, abandonné)
--

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

COPY**French Language Declaration**

Nom complet de l'unique ou premier inventeur		Full name of first inventor HODE Jean-Michel
Signature de l'inventeur	Date	Inventor's signature <i>Jean-Michel Hode</i> Date 21 MARS 2006
Domicile	Residence 92210 SAINT-CLOUD - FRANCE	
Nationalité	Citizenship French	
Adresse Postale	Mailing Address 3 Rue Pasteur – B3 3 Résidence « "Les Boucles de la Seine » 92210 SAINT-CLOUD, FRANCE	

Nom complet du second co-inventeur, le cas échéant		Full name of second joint inventor, If any
Signature de l'inventeur	Date	Second inventor's signature Date
Domicile	Residence	
Nationalité	Citizenship	
Adresse Postale	Mailing Address	

Nom complet du troisième co-inventeur, le cas échéant		Full name of third joint inventor, If any
Signature de l'inventeur	Date	Inventor's signature Date
Domicile	Residence	
Nationalité	Citizenship	
Adresse Postale	Mailing Address	

Nom complet du quatrième co-inventeur, le cas échéant		Full name of fourth joint inventor, If any
Signature de l'inventeur	Date	Inventor's signature Date
Domicile	Residence	
Nationalité	Citizenship	
Adresse Postale	Mailing Address	

(Fournir les mêmes renseignements et la signature du troisième co-inventeur et de tout co-inventeur supplémentaire.)

(Supply similar information and signature for fifth and subsequent joint inventors.)